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*Attorneys for Defendants Greenridge Estates Operating, LLC  
and Greenridge Estates Property, LLC*

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

**WILFRED HEUER,**

Case No. 3:22-cv-220

Plaintiff,

v.

**NOTICE OF REMOVAL**

**GREENRIDGE ESTATES OPERATING,  
LLC, a foreign Corporation, doing business as  
GREENRIDGE ESTATES and GREENRIDGE  
ESTATES ASSISTED LIVING FACILITY;  
GREENRIDGE ESTATES PROPERTY, LLC,  
a foreign Corporation, doing business as  
GREENRIDGE ESTATES and GREENRIDGE  
ESTATES ASSISTED LIVING FACILITY;  
HEALTH RESOURCES INC.,**

[Removal from Circuit Court of the State of  
Oregon, Multnomah County  
No. 22CV01072]

JURY TRIAL REQUESTED

Defendants.

**TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON,  
PORTLAND DIVISION:**

PLEASE TAKE NOTICE THAT, pursuant to 28 USC § 1332, 28 USC § 1441(a) and (b),  
and 28 USC § 1446, Defendants Greenridge Estates Operating, LLC and Greenridge Estates  
Property, LLC (“Defendants”) hereby remove the above-captioned lawsuit from the Circuit  
Court of Multnomah County, where it is currently pending, to the United States District Court for  
the District of Oregon, Portland Division. Defendants Greenridge Estates Operating, LLC and

Greenridge Estates Property LLC consent to this removal. Defendant Health Resources, Inc. does not exist any longer, and has not existed since at least December 29, 2021, and therefore its consent cannot be obtained and is not needed for removal.

As grounds for removal, Defendant states as follows:

**I. NOTICE OF REMOVAL IS TIMELY AND PROCEDURALLY PROPER**

1. On December 30, 2021, plaintiff Wilfred Heuer attempted to file a complaint for negligence in the Circuit Court for the State of Oregon, Multnomah County styled *Wilfred Heuer v. Greenridge Estates Operating, LLC, a foreign corporation doing business as Greenridge Estates and Greenridge Estates Assisted Living Facility; Greenridge Estates Property, LLC, a foreign corporation doing business as Greenridge Estates and Greenridge Estates Assisted Living Facility; and Health Resources, Inc.*, Case No. 22CV01072.

2. On January 6, 2022, plaintiff filed a letter reciting that the Circuit Court rejected his Complaint on January 3, 2022. In the letter, plaintiff represented it was correcting the mistakes and requested the Complaint's filing date relate back to December 30, 2021.

3. Plaintiff filed proofs of service on defendants Greenridge Estates Operating, LLC and Greenridge Estates Property, LLC, alleging service was made on each on January 12, 2022. Plaintiff has never filed or provided to the undersigned Defendants a proof of service on Health Resources, Inc.

4. The earliest possible dates of defendants Greenridge Estates Operating, LLC and Green Ridges Estates Property, LLC's first receipt, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which the actions is based was January 12, 2022.

5. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders received by defendants or filed in the Circuit Court accompany this Notice of Removal as separate attachments. *See* Exhibits 1, 2. No other pleadings or orders have been

received by or served by defendants Greenridge Estates Operating, LLC or Green Ridges Estates Property, LLC in the underlying case.

6. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because it is filed within 30 days of plaintiff's purported service on defendants Greenridge Estates Operating, LLC and Green Ridges Estates Property, LLC.

7. This Notice of Removal is filed within one year of the commencement of the action.

8. No further proceedings have been had in the Circuit Court of Multnomah County, Oregon, as of the date of this removal.

9. No previous application has been made for the relief requested herein.

10. All defendants consent to this removal. Defendants Greenridge Estates Operating, LLC and Green Ridges Estates Property, LLC consent to this removal. Defendant Health Resources, Inc. does not exist and has not existed since at least December 29, 2021, and therefore its consent is neither possible nor required for removal.

## **II. VENUE IS PROPER IN THE DISTRICT OF OREGON, PORTLAND DIVISION**

11. Pursuant to 28 U.S.C. § 1441(a), removal is made to this Court as the District and Division embracing the place where the State action is pending. The Circuit Court of Multnomah County, Oregon, is located within the Portland Division, pursuant to 28 USC § 117.

## **III. REMOVAL IS PROPER BECAUSE THIS DISTRICT HAS SUBJECT MATTER JURISDICTION**

12. There is complete diversity of citizenship between the Plaintiff and Defendant in this action satisfying the jurisdictional requirements of 28 USC § 1332. When the Complaint was filed and ever since:

- a. Plaintiff Heuer is a citizen of the State of Oregon.
- b. No defendant is a citizen of the State of Oregon.

- c. Greenridge Estates Operating, LLC is and has been since at least December 29, 2021 an Oregon limited liability company and citizen of Texas, Arkansas, Tennessee, and New York with three members: Warren Tonack, who is and has been a citizen of Texas; Winston Tonack, who is and has been a citizen of Arkansas; and O'Brien Investments, LLC. O'Brien Investments, LLC is and has been a Tennessee limited liability company and citizen of Tennessee and New York with four members: John O'Brien, Jr., who is and has been a citizen of Tennessee; Georgia B. O'Brien, who is and has been a citizen of Tennessee; Irrevocable Family Trust of John P. O'Brien, Jr. dated December 31, 2010; and Irrevocable Family Trust of Georgia B. O'Brien dated December 31, 2010.
  - i. The Irrevocable Family trust of John P. O'Brien, Jr. is and has been a citizen of Tennessee and New York. It is a Tennessee trust. Its trustee is John P. O'Brien, Jr., who is and has been a citizen of Tennessee. Its beneficiaries are Georgia B. O'Brien, who is and has been a citizen of Tennessee; John P. O'Brien III, who is and has been a citizen of New York; Molly Gray Tyson, who is and has been a citizen of Tennessee; and Conner MaCauley O'Brien, who is and has been a citizen of Tennessee.
  - ii. The Irrevocable Family trust of Georgia Butterfield O'Brien is and has been a citizen of Tennessee and New York. It is a Tennessee trust. Its trustee is Georgia O'Brien, who is and has been a citizen of Tennessee. Its beneficiaries are John P. O'Brien, Jr., who is and has been a citizen of Tennessee; John P. O'Brien III, who is and has been a citizen of New York; Molly Gray Tyson, who is and has been a citizen of Tennessee; and Conner MaCauley O'Brien, who is and has been a citizen of Tennessee.
- d. Green Ridges Estates Property, LLC is and has been since at least December 29, 2021, an Oregon limited liability company and a citizen of Texas, Arkansas,

Tennessee, and New York with six members: Warren Tonack, who is and has been a citizen of Texas; Winston Tonack, who is and has been a citizen of Arkansas; Molly Tyson, who is and has been a citizen of Tennessee; Conner O'Brien, who is and has been a citizen of Tennessee; John O'Brien III, who is and has been a citizen of New York; and O'Brien Investments, LLC. O'Brien Investments, LLC is and has been a Tennessee limited liability company and citizen of Tennessee and New York with four members: John O'Brien, Jr., who is and has been a citizen of Tennessee; Georgia B. O'Brien, who is and has been a citizen of Tennessee; Irrevocable Family Trust of John P. O'Brien, Jr. dated December 31, 2010; and Irrevocable Family Trust of Georgia B. O'Brien dated December 31, 2010.

- i. The Irrevocable Family trust of John P. O'Brien, Jr. is and has been a citizen of Tennessee and New York. It is a Tennessee trust. Its trustee is John P. O'Brien, Jr., who is and has been a citizen of Tennessee. Its beneficiaries are Georgia B. O'Brien, who is and has been a citizen of Tennessee; John P. O'Brien III, who is and has been a citizen of New York; Molly Gray Tyson, who is and has been a citizen of Tennessee; and Conner MaCauley O'Brien, who is and has been a citizen of Tennessee.
- ii. The Irrevocable Family trust of Georgia Butterfield O'Brien is and has been a citizen of Tennessee and New York. It is a Tennessee trust. Its trustee is Georgia O'Brien, who is and has been a citizen of Tennessee. Its beneficiaries are John P. O'Brien, Jr., who is and has been a citizen of Tennessee; John P. O'Brien III, who is and has been a citizen of New York; Molly Gray Tyson, who is and has been a citizen of Tennessee; and Conner MaCauley O'Brien, who is and has been a citizen of Tennessee.

- e. Health Resources, Inc. was formerly an Oregon corporation with its principal place of business in either Oregon or Washington. In 2009 it merged with Health Resources Realty, Inc.; Health Resources, Inc. was the nonsurviving entity of the merger. It did not exist when this case was filed and does not exist now.

13. More than \$75,000, exclusive of interest and costs, is in controversy in this action.

14. This Court would have had original subject matter jurisdiction of this action under the provisions of 28 U.S.C. § 1332 if the action had originally been brought in federal court. Removal is, therefore, proper under 28 U.S.C. § 1441(a).

15. Removal of this case on the basis of diversity of citizenship is not precluded by the provisions of 28 U.S.C. § 1441(b) because none of the defendants is a citizen of the State of Oregon, the State in which this action was brought.

#### **IV. FILING OF REMOVAL PAPERS**

16. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal of Civil Action is being served upon counsel for plaintiff, and a copy will be filed with the clerk of the Circuit Court of the State of Oregon for the County of Multnomah.

#### **V. RESERVATION OF RIGHTS**

17. By filing this Notice of Removal, no Defendant waives any jurisdictional or other defenses that might be available to it. In addition, Defendant expressly reserves the right to move for dismissal of some or all of plaintiff's claims pursuant to Rule 12 of the Federal Rules of Civil Procedure and does not waive said defenses with the filing of this Notice including without limitation lack of personal jurisdiction, insufficient service of process, and insufficient process. Defendant reserves the right to amend or supplement this Notice of Removal.

WHEREFORE, Defendants hereby remove this civil action from the Circuit Court of the State of Oregon for the County of Multnomah to the United States District Court for the District of Oregon, Portland Division, and requests that this Court retain jurisdiction for all further proceedings in this matter; that this Court accept jurisdiction thereof; that said action be placed henceforth on the

docket of this Court for further proceedings, the same as though originally instituted in this Court; and for such other relief as may be just and proper. Should any question arise as to the removal of this matter, Defendant respectfully requests an opportunity to conduct appropriate discovery and/or to provide briefing and oral argument as to why removal is proper.

Dated this 11<sup>th</sup> day of February, 2022.

LINDSAY HART, LLP

By: /s/ Matthew N. Miller

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*Attorneys for Defendants Greenridge Estates Operating,  
LLC and Greenridge Estates Property, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on February 11, 2022 I served a copy of **NOTICE OF REMOVAL** on the following person(s) in the manner indicated below at the following address(es):

Thomas D'Amore  
Amy Bruning  
4230 Galewood Street, Suite 200  
Lake Oswego, OR 97035  
tom@damorelaw.com  
amy@damorelaw.com

Attorneys for Plaintiff

- ☒ by Electronic Mail
- ☐ by Facsimile Transmission
- ☒ by First Class Mail
- ☐ by Hand Delivery
- ☐ by Overnight Delivery

- ☐ A courtesy copy was also emailed to the email addresses listed above

By: /s/ Matthew N. Miller

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